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C O N F I D E N T I A L SECTION 01 OF 02 DHAKA 000107

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TAGS: [ELAB](#) [KCRM](#) [KDEM](#) [PGOV](#) [PINR](#) [PREL](#) [PTER](#)
SUBJECT: NEW LAW MINISTER TAKES AIM AT JUDICIAL REFORM BUT
MISSES THE MARK ON IMPORTANT ORDINANCES

REF: DHAKA 00018

Classified By: Ambassador James F. Moriarty, Reasons 1.4(b) and (d)

Summary

1. (C) During a January 25 courtesy call by the Ambassador, new Law Minister Shafique Ahmed, a barrister in private practice for fifty years, was noncommittal about the fate of the ordinances passed by the Caretaker Government (CTG). (Reports indicate that the new Parliament might not ratify many of the ordinances, even though collectively the ordinances provide a stronger foundation for Bangladesh's democracy.) The Minister focused instead on the ambitious agenda for his office, including judicial oversight and reform, the introduction of commercial courts, and improved court administration to encourage swift and efficient justice.

Future of the Ordinances and Stolen Asset Recovery

2. (C) With USG assistance, Bangladesh's CTG strengthened Bangladesh's ability to combat money laundering and terrorist financing by issuing the Money Laundering Prevention Ordinance of 2008 (MLPO) and the Anti-Terrorism Ordinance (ATO) (reftel). These ordinances helped Bangladesh meet international standards in fighting financial crimes and increased the effectiveness of related law enforcement efforts. Recent court challenges, however, have highlighted the fact that these ordinances - like all of the 122 others passed under the Caretaker Government would lapse if not ratified within thirty days by the new Parliament.

3. (C) During his January 25th courtesy call on the new Law Minister, the Ambassador asked about the likely fate of the 122 ordinances. Noncommittal in his reply, the Minister indicated that all the ordinances would be submitted to the Parliament for final determination. The Minister said the ordinances had been issued quickly and without any real chance for public opinion to be reflected in the process. The Ambassador expressed strong US support for positive Parliamentary action being taken on the MLPO and ATO. The Minister said that the two ordinances would be given all due consideration but offered no further assurances. He did thank the United States government and the Justice Department for assistance to his government to recover money hidden overseas by corrupt Bangladeshi public officials and associates. He stressed the strong deterrent effect that such law enforcement action would have on persons contemplating corruption-related activity. He pledged his office's support for those ongoing efforts.

Improving Judicial Efficiency and Performance

14. (C) The Minister emphasized the lessons he had learned in five decades of legal practice and in his leadership role within the Bangladeshi Bar. (Note: The Minister is a former President of the Supreme Court Bar Association). In particular, he highlighted problems associated with the judiciary and the strong need for reform in that sector. He noted that Bangladeshi courts administered justice at a very slow pace, citing long delays in the legal process as one of his key concerns. Ahmed was looking for ways to improve judicial administration across the board, including technological improvements to enable courts to provide copies of judgments and other matters in an efficient manner.

15. (C) Critical of the current system for judicial administration in Bangladesh, the Minister strongly advocated the establishment of an independent secretariat for the judiciary in order to ensure the independence of the judiciary and to effectively execute the ongoing process of separating the judiciary from the executive. The Minister also outlined the current selection process for judges and the existing measures for disciplining the judiciary for poor performance or improper conduct, including corruption. He concluded that a key improvement would be to employ the existing Supreme Judicial Council in an effective and rigorous fashion to monitor and discipline the high level judiciary. He told the Ambassador that, since Liberation in 1971, the Council had only removed one judge successfully. He confided that he planned to personally advocate for this and other needed changes with the Chief Justice of the Supreme Court of Bangladesh.

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16. (C) In response to the Ambassador's question about how commercial disputes were adjudicated in Bangladesh, the Minister indicated that a limited number of courts focused on discrete economic issues (borrowing and lending, for example). Bangladesh did not, however, have a system of commercial courts. Ahmed indicated his strong support for such a separate system and said that he would instruct his staff to begin work on draft legislation establishing commercial courts.

Administrative Matters

17. (C) In recent weeks, the Bangladeshi media has been reporting that major changes in personnel at the Attorney General's Office were going to occur immediately, perhaps as a reward for Awami League loyalists. The Law Minister denied that a hurried change was imminent and said personnel changes would be merit- and review-based and not done on a whole-sale basis. He concluded that continuity should be maintained and competent, honest, and qualified attorneys employed. (Note: On January 20, 2009, the press announced that the new Attorney General, Mahbubey Alam, had asked all government lawyers recruited by the CTG to resign their positions. The next day, however, the press reported the Attorney General had rescinded this request for the time being and that only one deputy attorney general had resigned following the initial news item.)

Comment

18. (C) We are concerned by the hesitancy of the new government regarding ratification of key CTG ordinances, in particular the AMPO and the CTO. We are following up with the Law Minister, senior Awami League leaders, and our international partners to deliver the message that the fate of the ordinances will send a strong message to domestic and international audiences about the new government's commitment to reform. A technocrat (not elected to Parliament) Minister, Shafique Ahmed was a senior member of

Hasina,s legal team and a staunch loyalist. His legal work for Sheikh Hasina and her perception of him as a loyal follower led her to select him for this critical slot. We plan to explore ways to respond to the Minister,s interest in broader judicial reform issues and the other promising initiatives offered by the Minister.

MORIARTY